

JVR/emv April 5, 2012 AB346-032097-01

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

COLLEEN KAHL

CASE NO. 3:12-cv-00634

Plaintiff,

JUDGE DAVID KATZ

vs.

DAVID DUNHAM, et al.

ANSWER OF DEFENDANTS, DAVID
DUNHAM AND SOUTHEAST
DIRECTIONAL DRILLING, LLC TO
PLAINTIFF'S COMPLAINT

Defendants.

[Jury Demand Endorsed Hereon]

Now come Defendants, David Dunham and Southeast Directional Drilling, LLC by and through their attorney, John V. Rasmussen, and for their Answer to Plaintiff's Complaint state the following:

THE PARTIES

1. Defendants deny for lack of information sufficient to form a belief all of the statements, allegations and averments contained in paragraph 1 of Plaintiff's Complaint.
2. Defendants admit all of the statements, allegations and averments contained in paragraphs 2 and 3 of Plaintiff's Complaint.
3. Defendants deny for lack of information sufficient to form a belief all of the statements, allegations and averments contained in paragraph 4 of Plaintiff's Complaint.

JURISDICTION AND VENUE

4. Defendants deny for lack of information sufficient to form a belief all of the statements, allegations and averments contained in paragraphs 5 and 6 of Plaintiff's Complaint.

FIRST CLAIM FOR RELIEF

5. Defendants reallege and incorporate herein their answers and denials as contained in their Answer to Plaintiff's Complaint as though fully set forth herein.

6. Defendants admit as to the time and place of the accident referenced in paragraph 8 of Plaintiff's Complaint; answering further, Defendants deny all of the remaining statements, allegations and averments contained in paragraph 8 of Plaintiff's Complaint.

7. Defendants deny for lack of information sufficient to form a belief all of the statements, allegations and averments contained in paragraph 9 of Plaintiff's Complaint.

8. Defendants deny all of the statements, allegations and averments contained in paragraphs 10 through 12 of Plaintiff's Complaint.

SECOND CLAIM FOR RELIEF

9. Defendants reallege and incorporate herein their answers and denials as contained in their Answer to Plaintiff's Complaint as though fully set forth herein.

10. Defendants admit all of the statements, allegations and averments contained in paragraph 14 of Plaintiff's Complaint.

11. Defendants deny all of the statements, allegations and averments contained in paragraphs 15 through 18 of Plaintiff's Complaint.

12. Defendants admit all of the statements, allegations and averments contained in paragraph 19 of Plaintiff's Complaint.

13. Defendants deny all of the statements, allegations and averments contained in paragraph 20 of Plaintiff's Complaint.

14. Defendants deny each and every, all and singular, the statements, allegations and averments contained in Plaintiff's Complaint which are not specifically herein admitted to be true.

FIRST AFFIRMATIVE DEFENSE

15. Defendants allege that Plaintiff's Complaint fails to state a claim upon which relief could be granted.

SECOND AFFIRMATIVE DEFENSE

16. Defendants state that the incident described in Plaintiff's Complaint was caused solely and proximately by the negligence of Plaintiff, and/or in the alternative, that Plaintiff was comparatively negligent to a degree which precludes Plaintiff from recovery against the Defendants.

THIRD AFFIRMATIVE DEFENSE

17. Plaintiff's claims against the answering Defendants fail as a matter of law pursuant to R.C. § 2307.23 because the tortious conduct that proximately caused Plaintiff's injuries and damages is attributable to one or more persons from whom Plaintiff does not seek recovery in this action.

FOURTH AFFIRMATIVE DEFENSE

18. Defendants assert that Plaintiff's claims are barred because she failed to mitigate her damages.

FIFTH AFFIRMATIVE DEFENSE

19. Defendants allege that Plaintiff has failed to join all necessary and indispensable parties as required by Rule 19 and 19.1 of the Ohio Rules of Civil Procedure.

WHEREFORE, having fully answered Plaintiff's Complaint in its entirety, Defendants demand that said Complaint be dismissed with prejudice at Plaintiff's cost.

Defendants hereby demand trial by jury of all issues herein.

Attorney for Defendants

By: /s/ John V. Rasmussen
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CERTIFICATE OF SERVICE

A copy of the foregoing was served this 10th day of April, 2012, by Electronic mail to:

MICHAEL A. BRUNO
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NICHOLAS M. DODOSH
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/s/ John V. Rasmussen
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Attorney for Defendants